



Standards, Procedures and Public Appointments Committee

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Via email

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Dear Christian

I am writing to inform you of the outcome of the Standards, Procedures and Public Appointments Committee's consideration of a complaint against the CPG on France.

As you will be aware, the complaint was made by Ian McFarlane regarding his exclusion from future meetings of the CPG.

The Committee's role in considering complaints against cross-party groups is to ascertain whether the CPG has breached the Code of Conduct in relation to the matters raised in the complaint. I attach a copy of the complaints procedure at the annexe to this letter.

After reviewing the issues raised in the complaint, the Committee took the view that two main aspects of the Code are relevant. I will address each of these in turn.

Issue 1: Membership of the CPG

The first aspect of the Code which is relevant are the rules on recording whether an individual or organisation is a member of a CPG.

The Committee has considered the question of whether the CPG accurately recorded the membership status of Ian McFarlane, as required under the Code.

The following rules in the Code are relevant.

Rule 6.3.6 of the Code states—

“If there are any changes to the details set out in the registration form, the Convener of the Group (or a member of staff of the Convener who has been

formally delegated authority) must notify the Standards clerks of the change within 30 calendar days.”

[The changes include new members who have joined the CPG.]

Rule 6.4.7 of the Code states—

“Within 30 calendar days of holding an AGM, the Convener of a Group must submit to the Standards clerks a completed Annual Return, detailing the Group’s activities over the previous 12 month period. The information that Groups are required to provide are as set out in the Annual Return.”

[The information required in the Annual Return includes a list of the members of the CPG.]

The Committee notes your position that Mr McFarlane did not become a member of the CPG. However his view is that he became a member of the CPG at a meeting on 21 April 2015.

The Committee has considered the formal documentation associated with the CPG and noted that—

- The annual return for the CPG (submitted on the 29th of June 2015) does not list Mr McFarlane as a CPG member. If he was a member, the Code would require this information to be included (under rule 6.4.7 and the template in volume 3 of the Code).
- The Code also requires new members of the CPG to be notified to the Standards Clerks by the Convener of the Group (or a designated staff member) within 30 calendar days of becoming members (under rule 6.3.6). The Standards Clerks did not receive any notification that Mr McFarlane had become a member.
- The minute of the meeting of 21 April is silent on whether Mr McFarlane became a member of the CPG and lists him as an attendee. However there is no requirement to include new membership in the minute.

Committee conclusion on issue 1

The Committee has considered whether any rules in the Code of Conduct have been breached in relation to this element of the complaint.

It seems to the Committee that whether there has been a breach of the Code essentially depends on whether Mr McFarlane was a member of the CPG. If he was a member, the Code may have been breached since his membership status would not have been recorded correctly in the relevant CPG documentation.

The Committee has noted your position that Mr McFarlane was not a member. Mr McFarlane holds a different view.

The Committee has been required to weigh up these different positions, taking into account the overall balance of the evidence relating to the complaint. The Committee

notes that the formal documentation associated with the CPG is consistent with the position that Mr McFarlane did not become a member of CPG.

The Committee has concluded Mr McFarlane was not a member of the CPG. As a result the Committee considers that his membership status was recorded correctly in the documents associated with the CPG.

For that reason, the Committee does not consider that either rule 6.3.6 or 6.4.7 in the Code of Conduct has been breached.

Issue 2: Decision to prevent Mr McFarlane attending CPG meetings

Turning to the second element of the complaint, the Committee has considered whether the CPG complied with the Code when it asked Mr McFarlane not to attend future meetings.

The rules which are relevant to this element of the complaint relate to participation at CPG meetings.

Rule 6.4.2 states—

“...the overall membership profile of the Group must be clearly Parliamentary in character. Beyond this requirement, any decisions about membership, including whether to limit the number of non-MSP members, is a matter for the Group itself.”

Rule 6.4.5 states that—

“Attendance and participation by non-MSPs who are not registered members of a CPG is at the discretion of the CPG”.

The Committee notes that a conversation took place between you and Mr McFarlane about his not attending future CPG meetings.

Committee conclusion on issue 2

As discussed above, the Committee’s view is that Mr McFarlane was not a member of the CPG. It follows therefore (under rule 6.4.5), that his participation at future meetings is at the discretion of the CPG.

The Code does not prescribe how “the discretion of the CPG” will be exercised. There is no set procedure which must be followed in order to stop a non-member attending a meeting. This is consistent with the flexible approach taken in the Code which leaves CPGs largely responsible for managing their own meetings.

Given this position, the Committee does not consider that any rules in the Code were breached when you asked Mr McFarlane not to attend future meetings of the CPG.

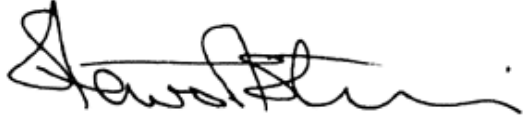
Conclusion

The Committee has considered carefully the matters raised in the complaint and has concluded that the CPG on France has not breached the Code of Conduct.

The Committee's consideration of the complaint has now been concluded.

In the interests of transparency, a copy of this letter and my response to the complainer will be posted on the section of the SPPA Committee's website which contains information about cross-party groups.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stewart Stevenson', with a stylized flourish at the end.

Stewart Stevenson MSP

Convener

Standards, Procedures and Public Appointments Committee

Complaints process for CPGs

This guidance sets out the approach that the SPPA Committee will take to any complaints received about Cross Party Groups.

The process is intended to allow the SPPA Committee to respond fairly and proportionately to any complaints received. It therefore provides for a more informal approach to investigating minor complaints whilst allowing the Committee to undertake formal consideration where necessary, including imposing sanctions.

Complaints about the use of parliamentary resources by CPGs will be considered by the SPCB and are not covered by this process. The process outlined in this guidance only applies to complaints which do not relate to parliamentary resources but to other rules in Section 6 of Volume 2.

The Committee has delegated steps 1 to 4 to the Convener. These responsibilities can also be delegated to the Deputy Convener if required.

Complaints process

- **Step 1** – the Convener establishes whether the complaint falls within the responsibilities of the SPPA Committee and whether it meets the admissibility criteria set out in Section 9.1 of volume 3. Where a complaint is not admissible, the Convener will dismiss it at this stage.
- **Step 2** – where a complaint is admissible, the Convener writes to the complainer confirming this and advising how it will be investigated. If necessary further information is requested from the complainer at this point. The complainer will be advised that the information they provide, including their name, may be published if the Committee decides the complaint requires a formal report to Parliament. The complainer will also be advised that the complaint should remain confidential while it is being investigated.
- **Step 3** – where necessary the Convener writes to the Convener of the CPG being complained about inviting them to respond and provide relevant evidence. The CPG Convener would also be informed that such correspondence could become public and that the complaint should remain confidential. The CPG Convener may involve the secretary to the group and other office-holders in preparing a response. If the complaint relates to the behaviour of an individual MSP in the group then that individual may be invited to provide a separate response to the complaint.
- **Step 4** – once the Convener is content that sufficient information is available, the Convener reports to the Committee.
- **Step 5** – the Committee considers the Convener's report on the complaint and agrees how to deal with it. Available options include—
 - a) *Dismiss the complaint* if there has been no breach of the Code;
 - b) *Find that there has been a breach of the Code but that the breach is not sufficiently serious to impose sanctions.* The Group may be advised

of any steps they must take to comply with the Code. The Committee may (but will not necessarily) publish the complaint letter, correspondence and the Committee's conclusions;

- c) *Remove recognition from the Group.* Any decision about removing recognition will be made at an SPPA Committee meeting, announced publicly and set out in a Committee report. When considering this option, the Committee will first give the CPG an opportunity to make representations either orally or in writing.
- d) *Find that there has been a breach of the Code which warrants sanctions being imposed on an individual MSP.* If the Committee wishes to recommend imposing sanctions on the Convener or another group member, the Committee will make this decision at an SPPA Committee meeting, announce it publicly and publish a report recommending to Parliament that sanctions be imposed. This would be followed by a Parliamentary debate and vote on the proposed sanctions. If sanctions are being considered, the MSP will first be given an opportunity to make representations either orally or in writing.
- e) *Find that the matter should be referred to the Commissioner for further investigation.* If, exceptionally, the Committee considers that the facts of the matter require further investigation, the Standards Commissioner may be directed to investigate the complaint and report to the Committee.